

# ROUTING AND TRANSMITTAL SLIP

Date

6/11/91

TO: (Name, office symbol, room number,  
building, Agency/Post)

Initials

Date

1. *JEAN STARKEY*

ORIGINAL  
(Rec)

2.

3.

4.

5.

Action

File

Note and Return

Approval

For Clearance

Per Conversation

As Requested

For Correction

Prepare Reply

Circulate

For Your Information

See Me

Comment

Investigate

Signature

Coordination

Justify

## REMARKS

*Here's Penngoid revised with  
the sanctioned Mateux*

DO NOT use this form as a RECORD of approvals, concurrences, disposals,  
clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)

Room No.—Bldg.

Phone No.

1d  
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PFE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region III  
841 Chestnut Building  
Philadelphia, Pennsylvania 19107

SPCC PENALTY DETERMINATION MATRIX

FACILITY NAME Pennzoil Products Co. CASE # WK 89-009  
Etowah Terminal

TYPE OF VIOLATION (circle appropriate number(s))

1. Failure to prepare Plan (112.3)
2. Failure to have Plan certified (112.3)
3. Failure to implement Plan (112.3)
4. Failure to submit information after spill (112.4)
5. Failure to amend Plan per Regional Administrator (112.4)
6. Failure to implement amendment (112.4)
- ⑦ Failure to review Plan every three years (112.5)
8. Failure to amend Plan after review (112.5)
9. Failure to have amendment certified (112.5)
10. Failure to amend Plan after change in design (112.6)
- ⑪ Other violations, cited and described as follows:

Failure to construct Secondary Containment in  
a manner consistent w/ 40 CFR 112.7;  
specifically, the diked areas at this facility  
did not appear to be sufficiently impervious  
to contain spilled oil.

TOTAL VIOLATIONS 2

NOTE: A MAXIMUM PENALTY will be calculated for EACH VIOLATION.

PRIOR TO THE PASSAGE OF THE OIL POLLUTION ACT OF 1990 (August 18) section 311(j)(2) of the FEDERAL WATER POLLUTION CONTROL ACT (Clean Water Act or CWA) and 40 C.F.R. Part 114 authorized the assessment of civil penalties of not more than \$5,000 for each day of violation of the provisions of Section 311 of the CWA and 40 C.F.R. Part 112.

This document is intended to aid Regional personnel in the determination of SPCC penalties under Section 311(j)(2) of the Clean Water Act, and 40 C.F.R. Part 114, and does not in any way alter or affect the meaning of these authorities.

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# SPCC PENALTY DETERMINATION MATRIX

Section 4301 (b) (6) of the OIL POLLUTION ACT amends section 311 (b) of the CWA by striking paragraph (6) and inserting new paragraphs which provide for CLASS I and CLASS II civil penalties (see pages 53 and 54 of the Conference Report for details).

\*\*\*\*\*  
NOTE: A REVISED SPCC PENALTY DETERMINATION MATRIX WILL BE PREPARED FOR CASES (after August 18, 1990) SUBJECT TO THE OIL POLLUTION ACT REGULATIONS.  
\*\*\*\*\*

## GRAVITY OF VIOLATION MATRIX (circle appropriate points)

### A. STORAGE CAPACITY IN GALLONS (Aboveground) POINTS (Be sure to convert barrels to gallons if necessary)

a.	none-----	0
b.	< 1,000-----	1
c.	1,000 - 5,000-----	2
d.	5,000 - 10,000-----	3
e.	10,000 - 25,000-----	4
f.	25,000 - 50,000-----	5
g.	50,000 - 100,000-----	6
h.	100,000 - 250,000-----	7
i.	250,000 - 500,000-----	8
j.	500,000 - 1,000,000-----	9
k.	> 1,000,000-----	10
TOTAL POINTS		10

### B. STORAGE CAPACITY IN GALLONS (Underground)

a.	none-----	0
b.	< 42,000-----	1
c.	> 42,000-----	2
TOTAL POINTS		0



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# SPCC PENALTY DETERMINATION MATRIX

## GRAVITY/TIME COMPUTATION (GRV)

THE GRV IS CALCULATED AS FOLLOWS:

TYPE OF FACILITY (TF) X NATURE OF VIOLATION (NV) = GRV BASE  
NUMBER

### A. TYPE OF FACILITY (TF)

Any combination of the following (see 40 CFR, part 112, Appendix, Section II. Definitions - page 29)

- |  |   |
|--|---|
| a. On-shore -----                              | 1 |
| b. Off-shore -----                             | 1 |
| c. Oil Well Drilling -----                     | 1 |
| d. Oil Production -----                        | 1 |
| e. Oil Refining -----                          | 1 |
| f. Oil Storage -----                           | 1 |
| g. Industrial -----                            | 1 |
| h. Commercial (sale, distribution, etc.) ----- | 1 |
| i. Agricultural (farm etc.) -----              | 1 |
| j. Public (school, library, etc.) -----        | 1 |
| k. Waste Treatment -----                       | 1 |
| l. Loading Racks -----                         | 1 |
| m. Vehicles/Rail Cars (in-facility) -----      | 1 |
| n. Pipelines (in-facility) -----               | 1 |

TF - TOTAL POINTS

### B. NATURE OF VIOLATION (NV)

The total points derived from the Type of Facility chart will be increased or decreased based upon an assessment of the nature of the violation after consultation between enforcement personnel (technical and legal).

Multiplier Range -	.5	Technical violation
(circle one)	1	Significant violation
	1.5	Severe violation
	2	Blatent disregard for law

### BRIEF DESCRIPTION OF REASONS FOR CHOICE OF NV MULTIPLIER:

*assessed nature of violation as "technical" due to a tertiary containment wall between the facility and the river (not delineated in their plan) but which would serve to control spills from the insufficiently impervious diked areas cited. Also review of plan every 3 years is somewhat technical - no record of such reviews were ~~at all~~ available at time of SPCC*

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# SPCC PENALTY DETERMINATION MATRIX

## GRV Base Number Calculation:

$$\frac{\text{LEP } 6}{(\text{TF})} \times \frac{.5}{(\text{NV})} = \frac{3}{(\text{GRV base \#})}$$

\*\*\*\*\*

CIRCLE THE APPROPRIATE GRV BELOW:

### GRV

GRV Base #	Amount	GRV Base #	Amount
1	= \$ 500	7	= \$3000
2	= 750	8	= 3500
3	= 1000	9	= 4000
4	= 1500	10	= 4500
5	= 2000	>10	= 5000
6	= 2500		

NOTE: If the GRV Base # is a fraction - round UP

\*\*\*\*\*

### Total Matrix Points (TMP)

TMP/35 (see Gravity of Violation Matrix from pages  
2 and 3 - A+B+C+D+E = TOTAL MATRIX POINTS)

$$\frac{17}{\text{TMP}} / 35 = 0.48$$

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# SPCC PENALTY DETERMINATION MATRIX

A MATRIX PENALTY SHALL BE CALCULATED FOR EACH VIOLATION

VIOLATION NUMBER 1

(reproduce page 6 for each violation)

*failure to review plan every three years.*

*→ see notes:*

Time of Violation (TV)

TIME OF VIOLATION

*2 days \**

CIRCLE THE APPROPRIATE TIME RANGE WHICH CORRESPONDS TO TIME OF VIOLATION:

Range	<1 year	=	5 points
1 -	<2 years	=	10 points
2 -	<3 years	=	15 points
3 -	<4 years	=	20 points
4 -	5 years	=	25 points

\*\*\*\*\*

THE MATRIX PENALTY IS CALCULATED AS FOLLOWS:

(GRV) x (TV) x (TMP/35) = TARGET PENALTY PER VIOLATION

\*\*\*\*\*

$$\frac{1000}{(\text{GRV})} \times \frac{5}{(\text{TV})} \times \frac{0.48}{(\text{TMP}/35)} = \$ \frac{\$ 2400.00}{\text{TARGET PENALTY PER VIOLATION}}$$

\*notes: no record of reviews available for a 6 year period in which (at least) 2 reviews should have been conducted by the facility. Due to technical aspect of this violation recommend penalty be assessed for 2 days (ie 1 day per review) with no mitigation or reduction of this violation *(ER)*

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# SPCC PENALTY DETERMINATION MATRIX

A MATRIX PENALTY SHALL BE CALCULATED FOR EACH VIOLATION

VIOLATION NUMBER 2  
(reproduce page 6 for each violation)

Time of Violation (TV)

TIME OF VIOLATION ~ 6 years see notes

CIRCLE THE APPROPRIATE TIME RANGE WHICH CORRESPONDS TO TIME OF VIOLATION:

Range	<1 year	=	5 points
1 -	<2 years	=	10 points
2 -	<3 years	=	15 points
3 -	<4 years	=	20 points
4 -	5 years	=	25 points

\*\*\*\*\*

THE MATRIX PENALTY IS CALCULATED AS FOLLOWS:

(GRV) x (TV) x (TMP/35) = TARGET PENALTY PER VIOLATION

\*\*\*\*\*

$$\frac{1000}{(\text{GRV})} \times \frac{25}{(\text{TV})} \times \frac{0.48}{(\text{TMP}/35)} = \$ \frac{12000}{\text{TARGET PENALTY PER VIOLATION}}$$

Notes: Plan dated and certified 6/30/83 - assume dikes were sufficiently impervious at that time. Inspection performed 8/1/89; therefore, sometime between 6/30/83 and 8/1/89 the conditions occurred, and were not corrected by the facility. (EE)



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SPCC PENALTY DETERMINATION MATRIX

VIOLATION NUMBER 1 @ MATRIX PENALTY = \$ 2400<sup>00</sup>  
VIOLATION NUMBER 2 @ MATRIX PENALTY = \$ 12000<sup>00</sup>  
VIOLATION NUMBER \_\_\_\_\_ @ MATRIX PENALTY = \$ \_\_\_\_\_  
VIOLATION NUMBER \_\_\_\_\_ @ MATRIX PENALTY = \$ \_\_\_\_\_

TOTAL TARGET PENALTY = \$ 14,400<sup>00</sup>

\*\*\*\*\*

Target penalty amount may be reduced after the complaint is filed in accordance with 40 C.F.R. § 114.3(a)(2) to reflect the Respondent's "demonstrated good faith efforts to achieve rapid compliance after notification of the violation".

after inspection correspondence submitted to EPA dated 8/10/89, "attachment I" with record of review signed by officials dated 8/3 and 8/7/89

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Plan certified 6/30/83; ~~the~~ @ reviews required at least every 3 years; therefore first review record should have been at least in 6/86 (then again in 6/89, at a minimum)

Per inspection, observed cracks in dike wall adjacent to tank #398; in addition each dike wall has been breached to allow aboveground pipes to pass through the dike